

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TODD DAVIS,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 05-1558
)	Judge Schwab
PENNSYLVANIA DEPARTMENT OF)	Magistrate Judge Hay
CORRECTIONS; JEFFREY A. BEARD;)	
STATE CORRECTIONAL INSTITUTION)	
AT CHESTER; DR. BENJAMIN)	
ROBINSON; OFFICER TERRA, PRISON)	
HEALTH SERVICES, INC.,)	
)	Re: Doc. #26

ORDER

AND NOW, this 12th day of October, 2006, after the plaintiff, Todd Davis, filed an action in the above-captioned case, and after a Motion to Dismiss was filed by Defendants, and after a Report and Recommendation was filed by the United States Magistrate Judge granting the parties ten days after being served with a copy to file written objections thereto, and no objections having been filed, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the motion to dismiss is granted in part and denied in part. It is granted as to all claims against the Department of Corrections and SCI Chester and as well to all official capacity claims against Defendants Beard, Dragovich and Terra, but as to any individual capacity claims against Defendants Beard, Dragovich and Terra, it is denied. It is also granted as to Plaintiff's denial of access to courts claim contained in Count

IV and Plaintiff's substantive due process claim contained in Count V of the Amended Complaint. In all other respects, it is denied.

IT IS FURTHER ORDERED that Count IV's denial of access to court's claim and Count V's substantive due process claims are dismissed sua sponte against Defendants Dr. Van Robinson and PHS, Inc.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the parties desire to appeal from this Order they must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

s/Arthur J. Schwab

Arthur J. Schwab
United States District Judge

cc: Honorable Amy Reynolds Hay
United States Magistrate Judge

Arthur L. Bloom, Esquire
Michael V. Worgul, Esquire
Arthur Bloom & Associates, LLP
310 Grant Street
Suite 530
Pittsburgh, PA 15219

Mary L. Friedline, Esq.
Christian D. Bareford, Esq.
Office of Attorney General
Fifth Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219